
HOUSE BILL 1106

State of Washington

65th Legislature

2017 Regular Session

By Representative Tarleton

1 AN ACT Relating to regulating water pollution discharges from
2 motorized mineral prospecting activities; adding a new section to
3 chapter 90.48 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the impacts
6 to water quality associated with motorized mineral prospecting are
7 currently unregulated by the state of Washington under state and
8 federal water pollution laws. Washington's existing method of
9 regulating small scale mineral prospecting through the gold and fish
10 pamphlet is insufficient to adequately address the impacts to fish
11 and water quality from this activity. Washington stands as an outlier
12 among neighboring western states in its failure to apply clean water
13 act regulatory authority to the water pollution associated with this
14 type of mining, which includes water temperature and sediment
15 discharge impacts. Furthermore, because federal clean water laws
16 allow third-party lawsuits in the absence of sufficient state
17 regulation of water pollution, there is a possibility that the
18 outcome of litigation will include the state losing discretion on how
19 to best regulate this activity.

1 (2) Therefore, it is the intent of the legislature to direct the
2 department of ecology to begin regulating the water pollution from
3 small scale mineral prospecting under existing regulatory authority.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.48
5 RCW to read as follows:

6 (1) The department shall issue a national pollution pollutant
7 discharge elimination system general permit consistent with its
8 responsibilities under RCW 90.48.260 or a general permit issued under
9 the authority of this chapter, or both, that applies to small scale
10 motorized mining.

11 (2) Under the permit issued pursuant to this section, at minimum
12 the department shall restrict small scale motorized mining:

13 (a) During the same times and in the same locations for any
14 waters that are subject to a selective fishing requirement or closure
15 under a rule adopted by the department of fish and wildlife under
16 chapter 77.12 RCW;

17 (b) During other times and places as the department deems
18 consistent with the requirements of this chapter; and

19 (c) So as not to provide coverage under the permit for use of
20 equipment with an intake nozzle with a diameter exceeding five inches
21 or that uses an engine that exceeds fifteen horsepower.

22 (3) In order to obtain coverage under a general permit issued
23 pursuant to this section, an applicant must provide the dates and
24 specific locations of activities that the applicant will commence
25 under the permit, including the locations within individual rivers,
26 streams, and tributaries.

27 (4) In implementing the permit under this section, the department
28 shall coordinate with the regional office of the United States
29 environmental protection agency. The department shall encourage the
30 United States environmental protection agency to establish similar
31 permit conditions that apply in Indian country, and other waters
32 outside of state jurisdiction, for the purposes of ensuring that
33 enhanced state regulation of small scale motorized mining does not
34 unfairly and damagingly concentrate the impacts of small scale
35 motorized mining activities in waters within the state but outside of
36 state jurisdiction.

37 (5) For the purposes of this section, small scale motorized
38 mining means motorized mining that is subject to rules adopted by the

1 department of fish and wildlife for small scale prospecting and
2 mining activities under RCW 77.55.091.

3 (6) The requirements of this section are in addition to the
4 requirements of RCW 77.55.091 and nothing in this section alters or
5 limits the requirements established pursuant to RCW 77.55.091.

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